

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,) Civil Action No. 3:24-cv-735
)
Plaintiff,)
)
v.)
)
HAMM'S FRONTIER MARINE LLC;)
EAST SIDE RIVER TRANSPORTATION, INC.;)
TOWBOATS LLC, M/V KEVIN MICHAEL;)
AEP 610B; ALM 6B; CH 9377; CH 9379;)
CH 9380; PGM 101; PGM 208B; PGM 209B;)
PGM 234B; PGM 258B; PGM 301, SCF 2508;)
SCF 2566B; SCF 2567B; and SCF 2564B,)
)
Defendants.)

UNITED STATES OF AMERICA'S VERIFIED ADMIRALTY COMPLAINT

The United States of America (“United States”), for its Verified Complaint against Hamm’s Frontier Marine LLC, East Side River Transportation, Inc., and Towboats LLC, *in personam*, the M/V KEVIN MICHAEL, *in rem*, and barges AEP 610B, ALM 6B, CH 9377, CH 9379, CH 9380, PGM 101, PGM 208B, PGM 209B, PGM 234B, PGM 258B, PGM 301, SCF 2508, SCF 2566B, SCF 2567B, and SCF 2564B, (collectively referred to as “the barges”), *in rem*, alleges as follows:

Nature of the Action

1. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.
2. The United States brings this action against Hamm’s Frontier Marine LLC, East Side River Transportation, Inc., Towboats LLC, the M/V KEVIN MICHAEL, and the barges to recover the costs of repairing damage to a navigational structure owned by the United States.

3. The United States asserts claims in this case under the general maritime law and the Rivers and Harbors Act (RHA), 33 U.S.C. §§ 401-476.

Jurisdiction and Venue

4. The United States is authorized to file this suit under 28 U.S.C. § 1345.

5. This Court has jurisdiction over the subject matter and the parties in accordance with 28 U.S.C. §§ 1331, 1333, and 1345.

6. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because it is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

Facts

7. Plaintiff United States of America is a sovereign nation authorized to sue under 28 U.S.C. § 1345 (United States as Plaintiff). The United States Army Corps of Engineers (“USACE”) is an agency of the United States.

8. The Melvin Price Locks and Dam is a navigation structure located on the Upper Mississippi River near Alton, Illinois at mile marker 200.5. The Melvin Price Locks and Dam is within the geographic boundaries of this District.

9. At all material times herein, the United States owned and operated, through the USACE, the Melvin Price Locks and Dam.

10. At all material times herein, Hamm’s Frontier Marine LLC, (“Hamm’s”), a limited liability company existing pursuant to the laws of the State of Illinois, with its registered office in Rome, Illinois, operated, managed, and/or controlled the M/V KEVIN MICHAEL and the barges.

11. At all material times herein, East Side River Transportation, Inc. (“East Side”), a corporation organized and existing pursuant to the laws of the State of Illinois, with its registered office in Swansea, Illinois, was the bareboat charterer of the M/V KEVIN MICHAEL and

controlled the barges.

12. At all material times herein, Towboats LLC, (“Towboats”), a limited liability company organized and existing pursuant to the laws of the State of Delaware, with its registered office in Wilmington, Delaware, was the owner of the towing vessel the M/V KEVIN MICHAEL.

13. At all material times herein, the M/V KEVIN MICHAEL and the barges were within the boundaries of this District.

14. At all material times herein, Hamm’s was operating the M/V KEVIN MICHAEL and towing the barges on the Upper Mississippi River. The tow consisted of an assortment of 15 barges, nine (9) loaded with grain and corn, and six (6) empty, traveling from Hennepin, Illinois to Cairo, Illinois.

15. On March 19, 2021, the M/V KEVIN MICHAEL and the barges were traveling southbound on the Mississippi River. At approximately 11:38 AM, as the M/V KEVIN MICHAEL and the barges approached the main lock chamber of the Melvin Price Locks and Dam, Hamm’s pilot lost control of the tow and struck the upstream guidewall’s bullnose of the main lock chamber. The initial allision caused some of the tow’s lines to part, and the lead, empty barges broke away from the flotilla, entering the forebay area of the main lock chamber, uncontrolled.

16. The remaining nine barges in the tow and the M/V KEVIN MICHAEL continued moving downstream after the initial impact, and allided with the main lock’s upstream guidewall’s bullnose again, breaking additional coupling and facing wires. Upon impact, the remaining barges in the tow broke away and careened into the dam area of the facility. Many of the uncontrolled barges allided with the dam’s tainter gates 2, 4, 5, 7, 8, and 9 and/or collided with each other as they drifted towards the dam’s tainter gates.

17. Following the accident, USACE personnel investigated the damage to the facility and

tainter gates and found that the impacts from the barges with the dam caused significant damage to tainter gates 4, 5, and 7. No appreciable damage to tainter gates 2, 8, or 9 was observed following the incident.

Count I - Claim Against Hamm's Frontier Marine LLC, East Side River Transportation, Inc., Towboats LLC, the M/V KEVIN MICHAEL, and the barges for Negligence Under the General Maritime Law

18. The United States incorporates by reference Paragraphs 1 through 17 of this Complaint.
19. The accident and resulting damage to the Melvin Price Locks and Dam including, but not limited to, damage to tainter gates 4, 5, and 7, were proximately caused by the negligence and other fault of Hamm's, East Side, Towboats, and their employees, including, but not limited to, the crew of the M/V KEVIN MICHAEL, and/or by the negligence and other fault of contractors and/or subsidiaries of one or more of Hamm's, East Side, and/or Towboats, and/or by the unseaworthiness of the M/V KEVIN MICHAEL, all of which were in the privity and knowledge of Hamm's, East Side, and Towboats, and which negligence and other fault included, but was not limited to:
 - A. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to exercise reasonable care in the operation of the vessel;
 - B. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to properly navigate and control the vessel;
 - C. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to keep a proper lookout;
 - D. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to maintain a safe distance from the Melvin Price Locks and Dam;
 - E. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to safely navigate through the Melvin Price Locks and Dam;

- F. The failure of the captain, pilot, and crew of the M/V KEVIN MICHAEL to take the necessary evasive maneuvers to avoid allision with the Melvin Price Locks and Dam;
- G. Operating the M/V KEVIN MICHAEL in a negligent and/or unseaworthy manner;
- H. Operating the M/V KEVIN MICHAEL without a properly trained and competent crew;
- I. Failing to ensure that the M/V KEVIN MICHAEL was in all respects fit and seaworthy for its intended purpose and use;
- J. Failing to properly vet and investigate the fitness of the pilot; and
- K. Other acts of negligence and/or fault, and/or unseaworthiness, to be established at the trial of this matter.

20. Based on currently available information, it is estimated that the cost of repairing the damage to the Melvin Price Locks and Dam proximately caused by the negligence and other fault of Hamm's, East Side, Towboats, the M/V KEVIN MICHAEL, and the barges, not including interest and penalties, totals \$1,993,764.69.

Count II – Claim Against Hamm's Frontier Marine LLC, East Side River Transportation, Inc., Towboats LLC, the M/V KEVIN MICHAEL, and the barges for Strict Liability Under the Rivers and Harbors Act

- 21. The United States incorporates by reference Paragraphs 1 through 20 of this Complaint.
- 22. The Melvin Price Locks and Dam is a public work built and maintained for the preservation and improvement of the navigable waters of the United States within the meaning of the RHA, 33 U.S.C. § 408.
- 23. Hamm's Frontier Marine LLC, as operator of the M/V KEVIN MICHAEL and the barges, is a "person" within the meaning of the RHA, as amended, 33 U.S.C. § 408.
- 24. East Side River Transportation, Inc., as the bareboat charterer of the M/V KEVIN MICHAEL with control over the barges, is a "person" within the meaning of the RHA, as amended,

33 U.S.C. § 408.

25. Towboats LLC, as the owner of the M/V KEVIN MICHAEL, is a “person” within the meaning of the RHA, as amended, 33 U.S.C. § 408.

26. The Upper Mississippi River in the vicinity of the Melvin Price Locks and Dam is a navigable waterway of the United States within the meaning of 33 U.S.C. § 408.

27. At all material times, the M/V KEVIN MICHAEL and the barges it towed were vessels “used and employed” within the meaning of 33 U.S.C. § 412.

28. Under the RHA, 33 U.S.C. §§ 408 and 412, Hamm’s Frontier Marine LLC, East Side River Transportation, Inc., Towboats LLC, the M/V KEVIN MICHAEL, and the barges are strictly liable, and jointly and severally liable, to the United States for the full costs to repair the damage to the Melvin Price Locks and Dam proximately caused by the accident on March 19, 2021.

29. Based on currently available information, it is estimated that the cost of repairing the damage to the Melvin Price Locks and Dam proximately caused by the allisions, not including interest and penalties, totals \$1,993,764.69.

WHEREFORE, the United States prays that a judgment be entered in its favor against Hamm’s Frontier Marine LLC, East Side River Transportation, Inc., Towboats LLC, *in personam*, the M/V KEVIN MICHAEL, and barges AEP 610B, ALM 6B, CH 9377, CH 9379, CH 9380, PGM 101, PGM 208B, PGM 209B, PGM 234B, PGM 258B, PGM 301, SCF 2508, SCF 2566B, SCF 2567B, and SCF 2564B, *in rem*, jointly and severally, for the total amount of the United States’ damages proximately caused by the accident, plus interest and costs, and for such other relief as the Court deems proper.

Dated: March 14, 2024

Respectfully submitted,

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VERIFICATION

Based upon information officially furnished to me, I declare under penalty of perjury, in accordance with 28 U.S.C. § 1746, that the foregoing is true and correct. Executed on March 14, 2024.

/s/ Jessica G. Sullivan
JESSICA G. SULLIVAN
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U.S. Department of Justice
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